

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In The Matter of)
)
LCI INTERNATIONAL TELECOM CORP.)
)
Petition for Limited Waiver of the)
Rate Disclosure Requirement of)
Section 64.703(a)(4) of the)
Commission's Rules)

CC Docket No. 92-77

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: The Common Carrier Bureau

PETITION FOR LIMITED WAIVER

LCI International Telecom Corp. ("LCI"),¹ by its attorneys, hereby respectfully petitions the Commission for a limited waiver of the rate disclosure requirement set forth in the Commission's *Second R & O*² and codified at Section 64.703(a)(4) of the Commission's rules.³ Specifically, LCI seeks a waiver of the rule through December 31, 1998, as it applies to two types of interstate, interLATA automatic collect ("auto collect") calls:⁴ regular auto collect calls and prison auto collect calls.

¹ LCI submits this waiver request on behalf of itself and its affiliate USLD Communications, Inc. ("USLD").

² *In the Matter of Billed Party Preference for InterLATA 0+ Calls*, Second Report and Order on Reconsideration, CC Docket No. 92-77, released Jan. 29, 1998 ("Second R & O"). The Petitions for Reconsideration of the *Second R & O* were filed with the Commission on April 9, 1998 and published in 63 Fed. Reg. 19726 (April 21, 1998). LCI filed a Response to Opticom's Petition for Reconsideration on May 6, 1998.

³ 47 C.F.R. § 64.703(a)(4).

⁴ Auto collect calls are collect calls processed entirely by automated operator systems and do not require the participation of a live operator.

LCI seeks this limited waiver because auto collect calls are incapable of providing rate disclosure to the *called* party on a 0+ interstate interLATA collect call.⁵ At present, the called party's only options during an auto collect call are to either accept or deny the call; the called party may not ask to receive a rate quote. LCI is working hard to develop a new system whereby the called party would have the option of being transferred to a live operator in order to obtain a rate quote. In fact, LCI has identified a way to overcome the technical obstacles involved in achieving compliance with the Commission's rate disclosure rules. However, the implementation process will take until the end of the year. Thus, LCI seeks a waiver until December 31, 1998 both for its regular automated collect calls and for automated collect calls from inmate locations.⁶

Introduction

Under the current rules, operator service providers ("OSPs"), such as LCI, are required to make rates available upon request.⁷ To obtain rate information at an LCI/USLD phone, a caller dials LCI's (or USLD's) toll-free number to be connected with a rate quote operator. In the *Second R & O*, the Commission amended its rules to require that *before* a 0+ interstate, domestic, interexchange call from an aggregator location is connected, the OSP must orally advise the

⁵ For the Commission's convenience, attached is a Declaration of Paul E. Reese, LCI's Director of Operator Services Engineering, that explains the technology of auto collect calls as it relates to the new rate disclosure rules.

⁶ LCI does not seek a waiver for any other type of 0+ interLATA call, including live operator collect calls.

⁷ 47 C.F.R. § 64.703(a). Aggregators must post on or near the telephone, in plain view of consumers, the name, address and toll-free number of the OSP, as well as a written disclosure that rates for operator-assisted calls are available upon request. 47 C.F.R. § 64.703(b).

caller how to receive a rate quote. In other words, OSPs must provide consumers with the option of receiving rate quotes prior to incurring any charges. Significantly, in the case of collect calls, the new rules require that this option be provided to *both* the calling party and the called parties.⁸

Currently, LCI provides both live operator collect and auto collect calling services to its customers. For operator collect calls, an LCI operator will be able to provide a rate quote, if requested. For auto collect calls, however, LCI has determined that the only way to provide rate information to the called party, as required by the new rules, is to upgrade its software. Without these upgrades, it is technically impossible for LCI to comply with the Commission's rules.

I. LCI Cannot Provide Rate Disclosure on Non-Inmate Auto Collect Calls by July 1, 1998

For regular auto collect calling services,⁹ the caller dials a number to access the USLD/LCI operator services network. An automated system scripts the caller to aid them in placing their call, and in the case of a collect call, asks the caller to state his name. After the call is extended to the called party, the system announces, "This is the [LCI/USLD] operator with a collect call from [recorded name], press 1 to accept the call. Press any other key to deny the call." These are the called party's only options: to accept or deny the call. Significantly, the

⁸ Section 64.703(a)(4) requires that a rate disclosure option be provided to "consumers." A "consumer" is defined in Section 64.708 of the Commission's rules as "a person initiating any interstate telephone call using operator services. *In collect calling arrangements handled by a provider of operator services, both the party on the originating end of the call and the party on the terminating end of the call are consumers under this definition.*" 47 C.F.R. § 64.708(d)(emphasis added).

⁹ Currently, regular auto collect calls constitute less than 5% of all calls handled by LCI's operator and automated systems.

automated system does not have access to rate quote information. Further, this automated system is unable to transfer the *called* party to a live operator to receive a rate quote.

In order comply with the Commission's new rules, LCI plans to create an interface between its automated system and its rate system so as to make rate quotes available to customers. In addition, LCI intends to develop the capacity to dynamically speak numeric values for quoting rates upon request. LCI's engineers estimate that the process of developing, testing and implementing these hardware and software upgrades will take until at least the end of the 1998 calendar year. Thus, LCI requests that the Commission grant it a waiver of Rule 64.703(a)(4) for regular auto collect calls until December 31, 1998. In addition, LCI's affiliate, USLD, provides operator services to other OSPs. LCI requests that any waiver extend to auto collect calls processed by USLD on behalf of other carriers as well.

Under Section 1.3 of its rules, the Commission may waive any provision of its rules upon a showing of good cause.¹⁰ The waiver process acts as "a safety valve" to account for special circumstances or unique hardships faced by a carrier.¹¹ Indeed, the Commission has a duty to serve the "public interest."¹² Pursuant to this duty, the Commission must be prepared to waive general requirements in cases where the public interest would require such a waiver.¹³

In the present case, LCI is facing a particular hardship; that is, a technical inability to comply with the Commission's rate disclosure rules for a specific type of collect call by the July 1, 1998 deadline. If the Commission does not grant this limited waiver with respect to regular

¹⁰ 47 C.F.R. § 1.3. See *Rio Grande Radio Fellowship Inc. v. FCC*, 406 F.2d 664 (1968); *Wait Radio v. FCC*, 418 F.2d 1153 (1969).

¹¹ *Wait Radio* at 1157.

¹² See 47 U.S.C. § 309(a); *United States v. Storer Broadcasting Co.*, 351 U.S. 192, 203 (1956).

auto collect calls, LCI will be forced to abandon its auto collect calling services. Clearly, this would not be in the public interest. Instead, the Commission should give LCI until the end of the year to bring its regular auto collect calling equipment into compliance with the rate disclosure rules.

II. LCI's Inmate Phone Systems, Which Exclusively Use Auto Collect Call Systems, Cannot Provide Rate Disclosure by July 1, 1998

Through its USLD affiliate, LCI also provides inmate calling services.¹⁴ The technical process involved in LCI's provision of inmate auto collect calling services is largely the same as regular auto collect calling services. However, there is one important distinction. For security reasons, inmates are not permitted to access live operators. Also, inmates are not permitted to utilize forms of payment other than the collect option. Thus, the only service offered in inmate environments is provisioned through automated collect systems.

For prison auto collect calls, like for regular auto collect calls, the inmate dials a number to access the USLD/LCI operator services network. For these calls, however, the keypad is disabled, and the automated system automatically determines that the call is from a prison facility, after which it prompts the inmate for his name. Then, the system extends the call to the called party who, after the same process described for non-inmate calls, must either accept or deny the call. Again, the automated system is unable to transfer the called party to a live

(...continued)

¹³ See *National Broadcasting Co. v. United States*, 319 U.S. 190, 225 (1943).

¹⁴ Of the properties that LCI provides operator services for, approximately 120 properties have inmate facility phones.

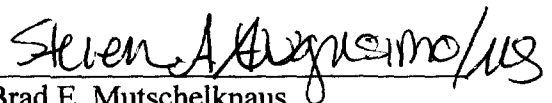
operator to receive a rate quote. Moreover, the involvement of a live operator is not even an option for this type of call.

To comply with the new rate disclosure rules, LCI's plan with respect to prison auto collect calls is the same as that for regular auto collect calls. As noted above, LCI estimates that the process of implementing the required technical changes will take until the end of the year. Therefore, LCI requests that the Commission grant it a waiver of Rule 64.703(a)(4) for prison auto collect calls until December 31, 1998. There is good cause for the Commission to grant this waiver as well. Indeed, if the Commission does not grant this limited waiver, LCI would be unable to provide service to prisons at all during the development of its new systems.

Conclusion

In its *Second R & O*, the Commission determined that oral disclosure of rate information at the point of purchase will better able consumers to make informed decisions as to their 0+ calls and also further competition in the OSP marketplace. Thus, the Commission amended its rules to require that all OSPs must comply with the new rules. LCI does not argue with the policy furthered by these rules. Nor does LCI seek a waiver of the rules indefinitely for a large number of its calls. Rather, LCI requests a limited waiver of the rules only for regular and prison auto collect calls until December 31, 1998, at which time LCI estimates that it can achieve compliance

Respectfully Submitted,


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Counsel for LCI INTERNATIONAL TELECOM
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Date: June 8, 1998

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TO: The Common Carrier Bureau

DECLARATION

I, Paul E. Reese, declare under penalty of perjury that the following is true and correct:

1. I am currently the Director of Operator Services Engineering at LCI International Telecom Corp. ("LCI").
2. I am responsible for the development and maintenance of all systems and applications as they relate to providing operator services call processing for LCI. Specifically and among other duties, my staff is responsible for performing the actual work required to provide the automated rate quote capability for automated collect calls.
3. I am making this Declaration in support of LCI's Petition for Limited Waiver filed with the Commission on June 8, 1998. In the Petition, LCI, on behalf of itself and its affiliate USLD Communications, Inc. ("USLD"), requests a limited waiver of the rate disclosure requirement set forth in the Commission's *Second R & O* and codified at Section 64.703(a)(4) of the Commission's rules. Specifically, LCI seeks a waiver of the rule through December 31,

1998, as it applies to two types of interstate, interLATA automatic collect (“auto collect”) calls: regular auto collect calls and prison auto collect calls.

4. LCI seeks this limited waiver because auto collect calls are incapable of providing rate disclosure to the *called* party on a 0+ interstate interLATA collect call. At present, the called party’s only options during an auto collect call are to either accept or deny the call; the called party may not ask to receive a rate quote. LCI is working hard to develop a new system whereby the called party would have the option of being transferred to a live operator in order to obtain a rate quote. However, the implementation process will take until the end of the year. Thus, LCI seeks a waiver until December 31, 1998 both for its regular automated collect calls and for automated collect calls from inmate locations. LCI does not seek a waiver for any other type of 0+ interLATA call, including live operator collect calls.

5. For regular auto collect calling services, calls that constitute less than 5% of all calls handled by LCI’s operator and automated systems, the caller dials a number to access the USLD/LCI operator services network. An automated system scripts the caller to aid them in placing their call, and in the case of a collect call, asks the caller to state his name. After the call is extended to the called party, the system announces, “This is the [LCI/USLD] operator with a collect call from [recorded name], press 1 to accept the call. Press any other key to deny the call.” These are the called party’s only options: to accept or deny the call. Significantly, the automated system does not have access to rate quote information. Further, this automated system is unable to transfer the *called* party to a live operator to receive a rate quote.

6. In order comply with the Commission’s new rules, LCI plans to create an interface between its automated system and its rate system so as to make rate quotes available to customers. In addition, LCI intends to develop the capacity to dynamically speak numeric values

for quoting rates upon request. LCI's engineers estimate that the process of developing, testing and implementing these hardware and software upgrades will take until at least the end of the 1998 calendar year. Thus, LCI requests that the Commission grant it a waiver of Rule 64.703(a)(4) for regular auto collect calls until December 31, 1998. LCI requests that any waiver also extend to auto collect calls processed by USLD on behalf of other carriers as well.

7. Through its USLD affiliate, LCI also provides inmate calling services. Of the properties that LCI provides operator services for, approximately 120 properties have inmate facility phones. The technical process involved in LCI's provision of inmate auto collect calling services is largely the same as regular auto collect calling services. However, there is one important distinction. For security reasons, inmates are not permitted to access live operators. Also, inmates are not permitted to utilize forms of payment other than the collect option. Thus, the only service offered in inmate environments is provisioned through automated collect systems.

8. For prison auto collect calls, like for regular auto collect calls, the inmate dials a number to access the USLD/LCI operator services network. For these calls, however, the keypad is disabled, and the automated system automatically determines that the call is from a prison facility, after which it prompts the inmate for his name. Then, the system extends the call to the called party who, after the same process described for non-inmate calls, must either accept or deny the call. Again, the automated system is unable to transfer the called party to a live operator to receive a rate quote. Moreover, the involvement of a live operator is not even an option for this type of call.

9. To comply with the new rate disclosure rules, LCI's plan with respect to prison auto collect calls is the same as that for regular auto collect calls. As noted above, LCI estimates that the process of implementing the required technical changes will take until the end of the year. Therefore, LCI requests that the Commission grant it a waiver of Rule 64.703(a)(4) for prison auto collect calls until December 31, 1998.

Signed: Dated: 6/5/98

Paul E. Reese

CERTIFICATE OF SERVICE

I, Melissa M. Smith, hereby certify that on this 8th day of May, 1998, I caused true and correct copies of the foregoing PETITION FOR LIMITED WAIVER of LCI International Telecom Corp. to be served via U.S. mail, first class postage, upon those persons listed below.

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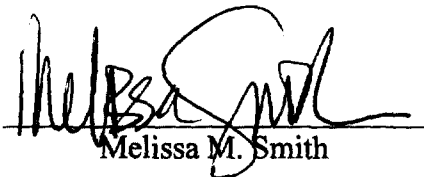
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Melissa M. Smith